

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MALIBU MEDIA, LLC,	X	
	:	
	:	
Plaintiff(s),	:	
	:	17 Civ. 9135 (KBF)
-v-	:	
JOHN DOE subscriber IP address 209.122.119.157	:	<u>SCHEDULING ORDER</u>
	:	
Defendant(s).	:	
	X	

KATHERINE B. FORREST, District Judge:

The parties propose the following schedule for this matter:

1. All parties [do ☐ / do not ☒ ] consent to conducting all further proceedings before a United States Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.<sup>1</sup>
  
2. Amended pleadings may not be filed, and no party may be joined, without leave of Court more than 20 days after the filing of this Order or the filing of a responsive pleading, whichever occurs first.
  
3. Close of fact discovery: July 13, 2018. **[within 4 months unless the case is particularly complex]**
  
4. Close of expert discovery: August 7, 2018. **[25 days after the close of fact discovery; the parties are to negotiate interim dates regarding expert witnesses]**

The parties contemplate experts in this matter for the following subject(s):  
liability, and damages.

5. **[For F.L.S.A. actions only]** Plaintiff(s) [do ☐ / do not ☐ ] anticipate making a motion for conditional certification of a collective action under 29 U.S.C. § 216(b). Plaintiff(s) shall include a proposed notice with the opening brief.

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<sup>1</sup> If all parties so consent, they should execute a consent form (available at <http://www.nysd.uscourts.gov/file/forms/consent-to-proceed-before-us-magistrate-judge>) and submit it to the Court via e-mail, along with this proposed order.

Section 216(b) proposed briefing schedule:

Opening: \_\_\_\_\_ [30 days after initial conference]  
Opp'n: \_\_\_\_\_ [21 days after opening brief]  
Reply: \_\_\_\_\_ [7 days after opposition brief]

6. The parties [**do** \_\_\_\_\_ / **do not** \_\_\_\_\_] anticipate making dispositive motions. The contemplated dispositive motion(s) is/are a motion(s) \_\_\_\_\_.  
Summary Judgment \_\_\_\_\_.

Proposed briefing schedule:

Opening: July 13, 2018 [no later than item 3]  
Opp'n: August 3, 2018 [21 days after opening brief]  
Reply: August 10, 2018 [7 days after opposition brief]  
*Last dates to file; motions may be brought at any time.*

7. Trial [**will** ☒ / **will not** ☐] be before a jury.<sup>2</sup>

**DO NOT FILL IN BELOW. THE COURT WILL SET ITEMS 7-10.**

8. The next status conference is set for \_\_\_\_\_ at \_\_\_\_\_.  
9. Pretrial materials, including the Joint Pretrial Order ("JPTO"), are due: \_\_\_\_\_.

10. The Final Pretrial Conference ("FPTC") is set for \_\_\_\_\_ at \_\_\_\_\_.

Motions in limine are due two weeks before FPTC; oppositions are due one week later. Daubert motions are due four weeks before FPTC; oppositions are due two weeks later. (No replies.)<sup>3</sup>

11. Trial in this matter shall commence on March 2019. Trial is anticipated to take 4 [days / weeks].

**Settlement discussions must occur in parallel to this schedule (schedule will not be adjourned, except in very unusual situations, for settlement discussions).**

SO ORDERED.

Dated: New York, New York  
\_\_\_\_\_, 2018

\_\_\_\_\_  
KATHERINE B. FORREST  
United States District Judge

<sup>2</sup> Checking this box does not constitute a formal jury demand under Fed. R. Civ. P. 38(b). It serves a purely administrative function.

<sup>3</sup> Deadlines for motions in limine and Daubert motions are generalized and subject to change. The parties may request modified schedule if desired.